

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

DONALD SMITH,
also known as
DON SMITH,

Petitioner,

v.

WILLIAM STEPHENS,
Director, Texas Dep't of Criminal Justice,
Correctional Institutions Division,

Respondent.

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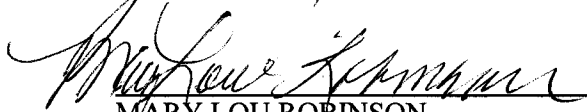
ORDER OVERRULING OBJECTIONS,
ADOPTING REPORT AND RECOMMENDATION
and DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner has filed with this Court an application for a writ of habeas corpus by a person in state custody. On December 11, 2013, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that petitioner's habeas petition be dismissed as successive or, in the alternative, time barred. On December 27, 2013, petitioner filed objections to the Report and Recommendation.

The undersigned United States District Judge has made an independent examination of the record in this case and has considered the objections made by petitioner to the Report and Recommendation. Petitioner contends the Magistrate Judge incorrectly determined that his petition was time barred. Even if petitioner were correct in his assertion, the fact remains that this Court is bound by 28 U.S.C. § 2244(b)(3)(A) and is without jurisdiction to review the instant petition on the merits without authorization from the Fifth Circuit. *See Adams v. Thaler*, 679 F.3d 312, 321 (5th Cir. 2012). Consequently, the objections filed by petitioner are hereby OVERRULED. The Magistrate Judge's Report and Recommendation is hereby ADOPTED. Accordingly, the petition for a writ of habeas corpus filed by petitioner is DISMISSED.

IT IS SO ORDERED.

ENTERED this 23rd day of January 2014.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE